

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

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CC:INTL:B06

PLR-149321-09

Date:

March 04, 2010

TY:

Legend

Taxpayer =

Advisory Firm =

Accounting Firm =

Month 1 =

Date 1 =

Date 2 =

Date 3 =

Shareholders =

Dear :

This responds to a letter dated October 20, 2009, submitted by Accounting Firm (Taxpayer's authorized representative) requesting that the Internal Revenue Service ("Service") grant Taxpayer an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to file a Form 4876-A (Election to be treated as an Interest Charge DISC) for Taxpayer's first taxable year.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. It is subject to verification on examination.

Facts

Taxpayer is a domestic corporation directly owned by Shareholders with a calendar taxable year. Advisory Firm engages in implementation of interest charge domestic international sales corporations ("IC-DISCs"). Accounting Firm is an accounting, tax,

and business consulting firm. In Month 1, Accounting Firm advised Shareholders of the tax advantages associated with IC-DISCs. However, Accounting Firm did not engage in the practice of incorporating IC-DISCs. Thus, Shareholders hired Advisory Firm to prepare and file all the necessary incorporation documents and agreements for the IC-DISC. From its incorporation on Date 1, Taxpayer was intended to be treated as an IC-DISC.

On Date 2 (92 days after Date 1), Advisory Firm filed Form 4876-A on behalf of Taxpayer. When Accounting Firm began preparation of Form 1120-IC-DISC (Interest Charge Domestic International Sales Corporation Return), Accounting Firm discovered that the Form 4876-A election was filed late. On Date 3, Accounting Firm informed Taxpayer that Form 4876-A was not filed during the 90-day period described in Temp. Treas. Reg. § 1.921-1T(b)(1). Accounting Firm, acting on Taxpayer's behalf, submitted this letter ruling request. At the time of the request, the Internal Revenue Service had not discovered the late filing.

Taxpayer has requested a ruling that grants an extension of time to file Form 4876-A so that the election will be treated as timely filed within 90 days after the beginning of its first taxable year.

Law and Analysis

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Section 992(b)(1)(B) provides that such election shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on such first day of the first taxable year for which such election is effective consent to such election.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A and that a corporation electing to be treated as an IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interest of the Government.

Based on the facts and representations submitted with Taxpayer's ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file the election described in Temp. Treas. Reg. § 1.921-1T(b)(1) with respect to its first taxable year.

The granting of an extension in this ruling letter is not a determination that Taxpayer is otherwise eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). A copy of this letter ruling should be attached to the Federal income tax return for any taxable year to which the ruling applies.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Christopher J. Bello
Chief, Branch 6
Office of Associate Chief Counsel
(International)